

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

v.

**Rakesh Kamboj;**  
**James Pedreiro;** and Does 1-10,  
Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Rakesh Kamboj; James Pedreiro;  
and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant Rakesh Kamboj owned the real property located at or about

1 880 E. Campbell Avenue, Campbell, California, in October 2018.

2 3. Defendant Rakesh Kamboj owned the real property located at or about  
3 880 E. Campbell Avenue, Campbell, California, in November 2018.

4 4. Defendant Rakesh Kamboj owned the real property located at or about  
5 880 E. Campbell Avenue, Campbell, California, in January 2019.

6 5. Defendant Rakesh Kamboj owns the real property located at or about  
7 880 E. Campbell Avenue, Campbell, California, currently.

8 6. Defendant James Pedreiro owned Optimal Health Chiropractic located  
9 at or about 880 E. Campbell Avenue, Campbell, California, in October 2018.

10 7. Defendant James Pedreiro owned Optimal Health Chiropractic located  
11 at or about 880 E. Campbell Avenue, Campbell, California, in November  
12 2018.

13 8. Defendant James Pedreiro owned Optimal Health Chiropractic located  
14 at or about 880 E. Campbell Avenue, Campbell, California, in January 2019.

15 9. Defendant James Pedreiro owns Optimal Health Chiropractic located  
16 at or about 880 E. Campbell Avenue, Campbell, California, currently.

17 10. Plaintiff does not know the true names of Defendants, their business  
18 capacities, their ownership connection to the property and business, or their  
19 relative responsibilities in causing the access violations herein complained of,  
20 and alleges a joint venture and common enterprise by all such Defendants.  
21 Plaintiff is informed and believes that each of the Defendants herein,  
22 including Does 1 through 10, inclusive, is responsible in some capacity for the  
23 events herein alleged, or is a necessary party for obtaining appropriate relief.  
24 Plaintiff will seek leave to amend when the true names, capacities,  
25 connections, and responsibilities of the Defendants and Does 1 through 10,  
26 inclusive, are ascertained.

**JURISDICTION & VENUE:**

11. The Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

12. Pursuant to supplemental jurisdiction, an attendant and related cause of action, arising from the same nucleus of operative facts and arising out of the same transactions, is also brought under California's Unruh Civil Rights Act, which act expressly incorporates the Americans with Disabilities Act.

13. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded on the fact that the real property which is the subject of this action is located in this district and that Plaintiff's cause of action arose in this district.

**FACTUAL ALLEGATIONS:**

14. Plaintiff went to Optimal Health Chiropractic in October 2018, November 2018 and January 2019 with the intention to avail himself of its services, motivated in part to determine if the defendants comply with the disability access laws.

15. Optimal Health Chiropractic is a facility open to the public, a place of public accommodation, and a business establishment.

16. Restrooms are one of the facilities, privileges, and advantages offered by Defendants to patrons of Optimal Health Chiropractic.

17. Unfortunately, on the date of the plaintiff's visit, the defendants did not provide an accessible restroom in conformance with the ADA Standards.<sup>1</sup>

18. Currently, the defendants do not provide an accessible restroom in conformance with the ADA Standards.

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<sup>1</sup> For example, the restroom door hardware had traditional round style knob that required tight grasping and twisting of the wrist to operate. On information and belief there are other issues with the restroom that renders it non-compliant. Those issues will be fleshed out in discovery and inspections. The plaintiff seeks to have fully compliant restroom provided.

1 19. Entrance into Optimal Health Chiropractic is also one of the facilities,  
2 privileges, and advantages offered by Defendants to patrons of Optimal  
3 Health Chiropractic.

4 20. Unfortunately, on the date of the plaintiff's visits, the defendants did not  
5 provide accessible door hardware in conformance with the ADA Standards.

6 21. Currently, the defendants do not provide accessible entrance in  
7 conformance with the ADA Standards.

8 22. Plaintiff personally encountered these barriers.

9 23. By failing to provide accessible facilities, the defendants denied the  
10 plaintiff full and equal access.

11 24. The lack of accessible facilities created difficulty and discomfort for the  
12 Plaintiff.

13 25. The defendants have failed to maintain in working and useable  
14 conditions those features required to provide ready access to persons with  
15 disabilities.

16 26. The barriers identified above are easily removed without much  
17 difficulty or expense. They are the types of barriers identified by the  
18 Department of Justice as presumably readily achievable to remove and, in fact,  
19 these barriers are readily achievable to remove. Moreover, there are numerous  
20 alternative accommodations that could be made to provide a greater level of  
21 access if complete removal were not achievable.

22 27. Plaintiff will return to Optimal Health Chiropractic to avail himself of  
23 its services and to determine compliance with the disability access laws once  
24 it is represented to him that Optimal Health Chiropractic and its facilities are  
25 accessible. Plaintiff is currently deterred from doing so because of his  
26 knowledge of the existing barriers and his uncertainty about the existence of  
27 yet other barriers on the site. If the barriers are not removed, the plaintiff will  
28 face unlawful and discriminatory barriers again.

28. Given the obvious and blatant nature of the barriers and violations alleged herein, the plaintiff alleges, on information and belief, that there are other violations and barriers on the site that relate to his disability. Plaintiff will amend the complaint, to provide proper notice regarding the scope of this lawsuit, once he conducts a site inspection. However, please be on notice that the plaintiff seeks to have all barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site, he can sue to have all barriers that relate to his disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

29. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

30. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is

1 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
2 defined by reference to the ADA Standards.

3 c. A failure to make alterations in such a manner that, to the  
4 maximum extent feasible, the altered portions of the facility are  
5 readily accessible to and usable by individuals with disabilities,  
6 including individuals who use wheelchairs or to ensure that, to the  
7 maximum extent feasible, the path of travel to the altered area and  
8 the bathrooms, telephones, and drinking fountains serving the  
9 altered area, are readily accessible to and usable by individuals  
10 with disabilities. 42 U.S.C. § 12183(a)(2).

11 31. When a business provides facilities such as a restroom, it must provide  
12 an accessible restroom in compliance with the ADA Standards.

13 32. Here, no such accessible restroom has been provided.

14 33. When a business provides an entrance, it must provide an accessible  
15 entrance in compliance with the ADA Standards.

16 34. Here, no such accessible entrance has been provided in compliance with  
17 the ADA Standards.

18 35. The Safe Harbor provisions of the 2010 Standards are not applicable  
19 here because the conditions challenged in this lawsuit do not comply with the  
20 1991 Standards.

21 36. A public accommodation must maintain in operable working condition  
22 those features of its facilities and equipment that are required to be readily  
23 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

24 37. Here, the failure to ensure that the accessible facilities were available  
25 and ready to be used by the plaintiff is a violation of the law.

1 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
2 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
3 Code § 51-53.)

4 38. Plaintiff repleads and incorporates by reference, as if fully set forth  
5 again herein, the allegations contained in all prior paragraphs of this  
6 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
7 that persons with disabilities are entitled to full and equal accommodations,  
8 advantages, facilities, privileges, or services in all business establishment of  
9 every kind whatsoever within the jurisdiction of the State of California. Cal.  
10 Civ. Code § 51(b).

11 39. The Unruh Act provides that a violation of the ADA is a violation of the  
12 Unruh Act. Cal. Civ. Code, § 51(f).

13 40. Defendants’ acts and omissions, as herein alleged, have violated the  
14 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
15 rights to full and equal use of the accommodations, advantages, facilities,  
16 privileges, or services offered.

17 41. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
18 discomfort or embarrassment for the plaintiff, the defendants are also each  
19 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
20 (c).)

21 42. Although the plaintiff was markedly frustrated by facing discriminatory  
22 barriers, even manifesting itself with minor and fleeting physical symptoms,  
23 the plaintiff does not value this very modest physical personal injury greater  
24 than the amount of the statutory damages.

1           **PRAYER:**

2           Wherefore, Plaintiff prays that this Court award damages and provide  
3 relief as follows:

4           1. For injunctive relief, compelling Defendants to comply with the  
5 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
6 plaintiff is not invoking section 55 of the California Civil Code and is not  
7 seeking injunctive relief under the Disabled Persons Act at all.

8           2. Damages under the Unruh Civil Rights Act, which provides for actual  
9 damages and a statutory minimum of \$4,000 for each offense.

10           3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12  
13 Dated: May 7, 2019

CENTER FOR DISABILITY ACCESS

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15 By:



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18 Amanda Seabock, Esq.  
19 Attorney for plaintiff  
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